

211142

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

In the Matter of License 11142 (Application 23932)
Sterling Vineyards

**ORDER AMENDING THE LICENSE
BY CORRECTING THE DESCRIPTIONS OF THE POINT OF
DIVERSION AND PLACE OF USE AND
BY ADDING MEASURING DEVICE AND
OTHER STANDARD LICENSE TERMS**

SOURCE: Napa River

COUNTY: Napa

WHEREAS:

1. License 11142 was issued to Sterling Vineyards on July 14, 1981, pursuant to Permit 16506 (Application 23932), and was recorded with the County Recorder of Napa County on July 16, 1981, in Volume 1209, Page 610.
2. The Division of Water Rights (Division) conducted an inspection of the project covered by License 11142 on May 17, 2000. This inspection found the descriptions of the point of diversion and place of use require correction, and that the licensee had no satisfactory records of diversion to ensure compliance with existing terms and conditions of the license.
3. The State Water Resources Control Board (SWRCB) has determined that in order to ensure future compliance with License 11142, an additional measuring device term needs to be added to License 11142.
4. The SWRCB will also add a water quality objective term, and add a term to prevent any act which results in the taking of a threatened or endangered species that have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description of the Point of Diversion and Diversion to Offstream Storage is corrected as follows:

By California Coordinate System of 1927, Zone 2, North 328,661 feet and East 1,842,536 feet, being within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M.

2. The description of the place of use is corrected as follows:

20.9 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 8, T8N, R6W, MDB&M.

0.5 acre within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 8, T8N, R6W, MDB&M.

12.8 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 8, T8N, R6W, MDB&M.

1.0 acre within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M.

20.6 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M.

9.0 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M.

2.2 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M.

67.0 acres total, as shown on map on file with the SWRCB.

3. A measuring device term is added as follows:

No water shall be diverted under this license until the licensee installs and maintains an in-line flow meter, acceptable to the Division, capable of measuring the instantaneous rate and cumulative amount diverted under this license. Licensee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and shall submit these monthly records with the triennial report of licensee, or whenever requested by the Division.

4. A water quality objectives term is added to this license as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

5. An endangered species term is added to this license as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

David R. Bueinger
for Edward C. Anton, Chief
Division of Water Rights

Dated: 001 3 0 2001

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23932

PERMIT 16506

LICENSE 11142

ORDER ALLOWING CHANGE IN PLACE OF USE
AND AMENDING THE LICENSE

WHEREAS:

1. License 11142 was issued to Sterling Vineyards and was recorded with the County Recorder of Napa County on July 16, 1981 in Volume 1209, Page 610.
2. A petition to change the place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
3. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The license condition pertaining to the continuing authority of the Board should be updated to conform to Standard Term 12 as contained in Section 780(a), Title 23, of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Condition of this license regarding the place of use is amended as follows:

23 acres within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 8, T8N, R6W, MDB&M
6 acres within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 8, T8N, R6W, MDB&M
10 acres within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 8, T8N, R6W, MDB&M
1 acre within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M
20 acres within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M
7 acres within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 5, T8N, R6W, MDB&M
67 acres total

(0000004)

2. The continuing authority condition of this license shall be amended to read:

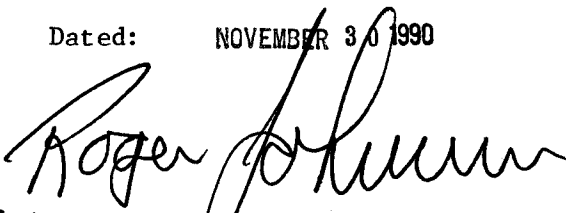
Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: NOVEMBER 30 1990


for Walter G. Pettit, Chief
Division of Water Rights



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 23932
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PERMIT 16506

LICENSE 11142

THIS IS TO CERTIFY, That STERLING VINEYARDS
1111 DUNAWALL LANE, CALISTOGA, CALIFORNIA 94515

HAS made proof as of JULY 16, 1980 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
NAPA RIVER IN NAPA COUNTY

tributary to SAN PABLO BAY

for the purpose of IRRIGATION, FROST PROTECTION, HEAT CONTROL, AND FIRE PROTECTION USES
under Permit 16506 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from DECEMBER 1, 1971 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed (A) SIXTY AND SIX-TENTHS (60.6) ACRE-Feet PER ANNUM BY
STORAGE, TO BE COLLECTED FROM NOVEMBER 1 OF EACH YEAR TO MARCH 15 OF THE SUCCEEDING
YEAR AS FOLLOWS:

(1) MERE RESERVOIR - 51 ACRE-Feet (2) WINERY POND - 9.6 ACRE-Feet AND

(B) ONE AND THIRTY-FOUR HUNDREDTHS (1.34) CUBIC FEET PER SECOND FOR REPLENISHMENT
STORAGE, TO BE DIVERTED FROM MARCH 15 TO MAY 15 OF EACH YEAR. THE TOTAL AMOUNT OF
WATER TO BE TAKEN FROM THE SOURCE (REPLENISHMENT PLUS COLLECTION TO STORAGE) SHALL
NOT EXCEED 92 ACRE-Feet PER YEAR. THE TOTAL AMOUNT OF WATER TO BE PLACED TO
BENEFICIAL USE (REPLENISHMENT PLUS WITHDRAWAL FROM STORAGE) SHALL NOT EXCEED 92
ACRE-Feet PER YEAR.

THE MAXIMUM RATE OF DIVERSION TO OFFSTREAM STORAGE SHALL NOT EXCEED 1.34 CUBIC FEET
PER SECOND.

THIS LICENSE DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE
SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

THE POINT OF DIVERSION AND DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree on the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

23 ACRES WITHIN THE NE1/4 OF NW1/4 OF PROJECTED SECTION 8, T8N, R6W, MDB&M
6 ACRES WITHIN THE NW1/4 OF NW1/4 OF PROJECTED SECTION 8, T8N, R6W, MDB&M
10 ACRES WITHIN THE NW1/4 OF NE1/4 OF PROJECTED SECTION 8, T8N, R6W, MDB&M
1 ACRE WITHIN THE SW1/4 OF SE1/4 OF PROJECTED SECTION 5, T8N, R6W, MDB&M
10 ACRES WITHIN THE SE1/4 OF SW1/4 OF PROJECTED SECTION 5, T8N, R6W, MDB&M

50 ACRES TOTAL, AS SHOWN ON MAP ON FILE WITH STATE WATER RESOURCES CONTROL BOARD.

NO DIVERSION IS ALLOWED AFTER MARCH 15 OF EACH YEAR EXCEPT TO REPLENISH WATER STORED PRIOR TO MARCH 15. SUCH DIVERSION AFTER MARCH 15 IS CONTINGENT UPON CONTINUING PARTICIPATION BY LICENSEE IN A WATER DISTRIBUTION PROGRAM APPROVED BY THE STATE WATER RESOURCES CONTROL BOARD.

FOR THE PROTECTION OF FISH AND WILDLIFE, LICENSEE SHALL DURING THE PERIOD:
(A) FROM NOVEMBER 1 THROUGH NOVEMBER 14 BYPASS A MINIMUM OF 1.0 CUBIC FOOT PER SECOND,
(B) FROM NOVEMBER 15 THROUGH FEBRUARY 29 BYPASS A MINIMUM OF 15.0 CUBIC FEET PER SECOND,
(C) FROM MARCH 1 THROUGH MAY 15 BYPASS A MINIMUM OF 10.0 CUBIC FEET PER SECOND.
THE TOTAL STREAM FLOW SHALL BE BYPASSED WHENEVER IT IS LESS THAN THE DESIGNATED AMOUNT FOR THAT PERIOD. STREAMFLOWS SHALL BE AS MEASURED AT THE NEAREST U.S.G.S. GAGING STATION ON THE RIVER OR AS MEASURED BY A DEVICE ACCEPTABLE TO THE BOARD AT ALTERNATIVE LOCATIONS WHICH MAY BE DESIGNATED BY THE WATERMASTER ADMINISTERING THE WATER DISTRIBUTION PROGRAM.

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THIS LICENSE IS SUBJECT TO THE CONTINUING AUTHORITY OF THE STATE WATER RESOURCES CONTROL BOARD TO ISSUE ANY APPROPRIATE ORDER TO INSURE THAT THE APPROPRIATION OF WATER FOR FROST PROTECTION UNDER THE LICENSE DOES NOT RESULT IN WASTE, UNREASONABLE USE, UNREASONABLE METHOD OF USE, OR UNREASONABLE METHOD OF DIVERSION OF WATER. ACTION BY THE BOARD WILL BE TAKEN ONLY AFTER NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR HEARING.

THIS LICENSE IS CONDITIONED UPON FULL COMPLIANCE WITH SECTIONS 1601, 1603, AND/OR SECTION 6100 OF THE FISH AND GAME CODE.

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.
